

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Inventor: Katsuhiko HIRAMATSU Art Unit 2618
Appln. No.: 10/539,419 Exr. T. Gesesse
Filed: June 17, 2005 Conf. No. 8011
For: RADIO COMMUNICATION SYSTEM, COMMUNICATION TERMINAL APPARATUS, BASE STATION APPARATUS AND RADIO COMMUNICATION METHOD

RESPONSE UNDER 37 CFR § 1.116

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Final Rejection dated July 13, 2007, the Applicant respectfully requests reconsideration and allowance of this application in light of the following remarks.

The Applicant acknowledges with appreciation the indication in the Final Rejection that claims 1, 2, 7-10, and 12 are allowed.

1. Request to Withdraw Finality of Office Action

The Applicant notes that the January 23, 2007, Office Action indicated that claims 1-12 were allowed. Applicant responded to this Office Action by amending only the abstract and

specification to overcome the objections applied thereto; Applicant did not amend the claims. Thus, Applicant's Amendment of April 18, 2007, did not necessitate the new grounds of rejection, as alleged in the Final Rejection (see Final Rejection section 6). Therefore, the basis for making the rejections of claims 3-6 and 11 final is unfounded, and withdrawal of the finality of the rejections is deemed to be warranted.

2. Traversal of Prior Art Rejections

Claims 3-6 and 11 stand rejected, under 35 USC §102(b), as being anticipated by Yamada et al. (US 6,275,711). The Applicant respectfully traverses these rejections based on the points set forth below.

Claim 3 defines a communication terminal apparatus that transmits a signal using an error coding scheme and a modulation scheme indicated by a selected base station apparatus. The Final Rejection proposes that Yamada discloses this feature in Fig. 5 and the specification in column 4, lines 61-65, and column 5, lines 23-25 (see Final Rejection page 3, lines 1-3).

The Applicants submit that, contrary to the assertion in the office action, Yamada discloses in Fig. 5 and the cited text, that when two base stations each transmit (S1) a CRC signal to a control station and the CRC signal from one base station is received "OK" (S2) and the CRC signal from the other base station

is received "NG" (S2), the base station transmitting the OK CRC signal is selected (S4) for continued communication (S9) with the control station (see Yamada col. 4, lines 61-65). Also, if the number of received zeros varies (S6) for TPC signals transmitted by the two base stations, the base station transmitting the TPC signal with the greater number of received zeros is selected (S8) for continued communication (S9) with the control station (see col. 5, lines 24-28).

As may be determined from the above discussion of the above-cited portions of Yamada's disclosure, Yamada does not disclose the Applicants' claimed feature of a communication terminal apparatus that transmits a signal using an error coding scheme and a modulation scheme indicated by a selected base station apparatus. Instead, Yamada discloses a very different feature directed to selecting a base station having the best channel condition and transmitting a signal to the selected base station.

Accordingly, the Applicant submits that Yamada does not anticipate the subject matter defined by claim 3. Independent claim 11 similarly recites the above-mentioned feature distinguishing apparatus claim 3 from Yamada, but with respect to a method. Therefore, allowance of claims 3 and 11 and all claims dependent therefrom is warranted.

In view of the above, it is submitted that this application is in condition for allowance, and a notice to that effect is respectfully solicited.

If any issues remain which may best be resolved through a telephone communication, the examiner is requested to telephone the undersigned at the local Washington, D.C. telephone number listed below.

Respectfully submitted,



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Date: October 12, 2007
JEL/DWW/att

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